

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CORNELL DAVIS,

Plaintiff,

v.

J. PENA, et al.,

Defendants.

No. 1:22-cv-00114-DAD-SAB (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DENYING
PLAINTIFF'S MOTION TO PROCEED *IN*
FORMA PAUPERIS

(Doc. Nos. 2, 9, 10)

Plaintiff Cornell Davis is a state prisoner proceeding *pro se* in this civil rights action pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On February 2, 2022, the assigned magistrate judge issued findings and recommendations, recommending that plaintiff's application to proceed *in forma pauperis* be denied and that plaintiff be required to pay the \$402.00 filing fee in full to proceed with this action. (Doc. No. 9.) Specifically, the assigned magistrate judge concluded that plaintiff's trust account had an available credit of \$764.60 and therefore payment of the filing fee would not deplete plaintiff's account. (*Id.* at 2.) The findings and recommendations were served on plaintiff and contained notice that objections thereto were to be filed within fourteen (14) days after service. (*Id.*) On February 18, 2022, plaintiff filed a "Motion for Recommendation to Grant Plaintiff's Motion to

1 Proceed *In Forma Pauperis*.” (Doc. No. 10.) The court construes this motion as plaintiff’s
2 objections to the pending findings and recommendations. In his objections, plaintiff asserts that
3 while he does have the money to pay sufficient to pay the filing fee in connection with this action,
4 that money is needed to demonstrate his fitness as a parent. (*Id.*) Notwithstanding how plaintiff
5 intends to use his funds, his trust account indicates that he is not indigent and has the ability to
6 pay the filing and administrative fees in the amount of \$402.00. (*See* Doc. No. 7.)

7 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(C), this court has conducted a
8 *de novo* review of the case. Having carefully reviewed the entire file, including plaintiff’s
9 objections, the court finds the findings and recommendations to be supported by the record and
10 proper analysis.

11 Accordingly,

- 12 1. The findings and recommendations issued on February 2, 2022 (Doc. No. 9) are
13 adopted in full;
- 14 2. Plaintiff’s application to proceed *in forma pauperis* (Doc. No. 2) is denied;
- 15 3. Within forty-five (45) days from the date of service of this order, plaintiff shall pay
16 the required filing fee of \$402.00 in full to proceed with this action; and
- 17 4. Failure to pay the filing fee within the allotted time will result in dismissal of this
18 action.

19 IT IS SO ORDERED.

20 Dated: March 6, 2022

21 
UNITED STATES DISTRICT JUDGE